

OCT 9 2000

# DECLARATION FOR PATENT APPLICATION

As a below-named inventor, I hereby declare that:

My residence, post office address and citizenship is as stated below next to my name.

I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled RECOMBINANT BACTERIAL PHYTASES AND USES THEREOF, the specification of which

\_\_\_\_\_ is attached hereto.

X was filed on May 25, 2000 as U.S. Application Serial No. 09/580,515 (the "Application") (Docket No. DIVER1370-4).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability of the subject matter of the Application as defined in Title 37, Code of Federal Regulations ("C.F.R."), § 1.56.

With respect to the Application, I hereby claim the benefit under 35 U.S.C. Section 119(e) of any United States provisional application(s) listed below:

\_\_\_\_\_  
(Application Serial No.)      (Filing Date)

With respect to the Application, I hereby claim the benefit under 35 U.S.C. Section 120 of any United States application(s), or Section 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of the application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. Section 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability of the subject matter of the

Application as defined in Title 37, C.F.R., Section 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of the Application:

<u>09/318,528</u> (Application Serial No.)	<u>May 25, 1999</u> (Filing Date)	<u>Pending</u> (Status) (patented, pending, abandoned)
<u>09/291,931</u> (Application Serial No.)	<u>April 13, 1999</u> (Filing Date)	<u>Pending</u> (Status) (patented, pending, abandoned)
<u>09/259,214</u> (Application Serial No.)	<u>March 1, 1999</u> (Filing Date)	<u>Pending</u> (Status) (patented, pending, abandoned)
<u>08/910,798</u> (Application Serial No.)	<u>August 13, 1997</u> (Filing Date)	<u>Issued (5,876,997)</u> (Status) (patented, pending, abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: Jay M. Short

Inventor's signature: 

Date: \_\_\_\_\_

Residence: Rancho Santa Fe, CA 92067

Citizenship: USA

Post Office Address: 6801 Paseo Delicias  
Box 7214  
Rancho Santa Fe, CA 92067-7214

Full name of second inventor: Keith A. Kretz

Inventor's signature: Keith A. Kretz

Date: 6-29-00

Residence: San Marcos, CA 92069

Citizenship: USA

Post Office Address: 973 Hawthorne Drive  
San Marcos, CA 92069

Gray Cary\GT\6185216.1  
104703-990000

Attorney Docket No. DIVER1370-4  
Applicant or Patentee: Jay M Short et al.  
Serial No. or Patent No.: Unassigned  
Filed or Issued: May 25, 2000

001 0 0 2000

Title: RECOMBINANT BACTERIAL PHYTASES AND USES THEREOF

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS**  
**(37 C.F.R. §§ 1.9(f) and 1.27(c)) - SMALL BUSINESS CONCERN**

I hereby declare that I am

- ☐ the owner of the small business concern identified below:  
☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN DIVERSA CORPORATION  
ADDRESS OF CONCERN 10665 Sorrento Valley Road  
San Diego, CA 92121

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 C.F.R. §121.3-18 and reproduced in 37 C.F.R. § 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled RECOMBINANT BACTERIAL PHYTASES AND USES THEREOF by inventor(s) JAY M. SHORT and KEITH A. KRETZ described in:

- ☐ the specification filed herewith  
☒ Based on Application Serial No. \_\_\_\_\_, filed May 25, 2000  
☐ Patent No. \_\_\_\_\_, issued \_\_\_\_\_

I authorize and request insertion of the serial number of the application when officially known.

I hereby declare that rights under contract or law have been conveyed to and remain with the nonprofit organization with regard to the above-identified invention.

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 C.F.R. §1.9(d) or by any concern which would not qualify as a small business concern under 37 C.F.R. §1.9(d) or a nonprofit organization under 37 C.F.R. §1.9(e).

NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities (37 C.F.R. §1.27).

Full Name \_\_\_\_\_

Address \_\_\_\_\_

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

Full Name \_\_\_\_\_

Address \_\_\_\_\_

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate (37 C.F.R. §1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING Carolyn Erickson

TITLE OF PERSON OTHER THAN OWNER Director of Intellectual Property

ADDRESS OF PERSON SIGNING 10665 Sorrento Valley Road; San Diego, CA 92121

SIGNATURE Carolyn Erickson DATE June 28, 2000

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GT 6149206.1  
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PATENT  
Attorney Docket No.: DIVER1370-4

In re Application of:  
Jay M. Short et al.

Application No.: Unassigned

Filed: May 25, 2000

For: RECOMBINANT BACTERIAL  
PHYTASES AND USES THEREOF

## POWER OF ATTORNEY BY ASSIGNEE

As a below-named assignee of the above-identified application ("Application"):

I hereby appoint the following attorneys of the assignee to prosecute the Application and to transact all business in the United States Patent and Trademark Office connected therewith:

JOSEPH R. BAKER  
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Registration No. 38,347  
Registration No. 33,402  
Registration No. 37,643  
Registration No. 44,835  
Registration No. 31,238  
Registration No. 35,255  
Registration No. 30,298  
Registration No. 41,234  
Registration No. 31,192  
Registration No. 40,825  
Registration No. 38,322  
Registration No. 38,626  
Registration No. 27,744

In re Application of:  
Jay M. Short et al.  
Application No.: Unassigned  
Filed: May 25, 2000  
Page 2

PATENT  
Attorney Docket No.: DIVER1370-4

I hereby authorize and request insertion of the application number of the  
Application when officially known.

Direct all telephone calls to:

LISA A. HAILE, PH.D.  
Telephone: (858) 677-1456

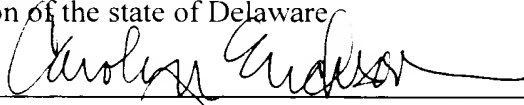
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**DIVERSA CORPORATION**

A corporation of the state of Delaware

By:



Name:

Carolyn Erickson

Title:

Vice President, Intellectual Property

Date:

June 28, 2000